

1 THE HONORABLE JOHN H. CHUN
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6 IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 CORINA TWIGG, an individual,

10 Plaintiff,

11 v.

12 WASHINGTON VOCATIONAL
13 SERVICES, *et al.*,

14 Defendants.

Case No. 2:22-cv-00571-JHC

**STIPULATED PROTECTIVE
ORDER**

NOTE FOR MOTION CALENDAR:

January 13, 2023

15 1. PURPOSES AND LIMITATIONS

16 Discovery in this action is likely to involve production of confidential, proprietary, or private
17 information for which special protection may be warranted. Accordingly, the parties hereby stipulate
18 to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge
19 that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all
20 disclosures or responses to discovery, the protection it affords from public disclosure and use extends
21 only to the limited information or items that are entitled to confidential treatment under the applicable
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1 legal principles, and it does not presumptively entitle parties to file confidential information under
2 seal.

3 **2. "CONFIDENTIAL" MATERIAL**

4 "Confidential" material shall include the following documents and tangible things produced or
5 otherwise exchanged: any person's medical records and/or bills, any person's bank account, financial
6 information, and tax records, and any person's sensitive employee files and records; client lists, any
7 materials from defendant's Apricot database on clients, trade secrets and/or proprietary information
8 regarding confidential workings of defendant's enterprise, defendant's financial records on operations-
9 level, and similar records.

10 **3. SCOPE**

11 The protections conferred by this agreement cover not only confidential material (as defined
12 above), but also (1) any information copied or extracted from confidential material; (2) all copies,
13 excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations,
14 or presentations by parties or their counsel that might reveal confidential material.

15 However, the protections conferred by this agreement do not cover information that is in the
16 public domain or becomes part of the public domain through trial or otherwise.

17 **4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL**

18 **4.1 Basic Principles.** A receiving party may use confidential material that is disclosed or
19 produced by another party or by a non-party in connection with this case only for prosecuting,
20 defending, or attempting to settle this litigation. Confidential material may be disclosed only to the
21 categories of persons and under the conditions described in this agreement. Confidential material must
22 be stored and maintained by a receiving party at a location and in a secure manner that ensures that
23 access is limited to the persons authorized under this agreement.

1 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the
2 court or permitted in writing by the designating party, a receiving party may disclose any confidential
3 material only to:

- 4 (a) the parties;
- 5 (b) the receiving party’s counsel of record in this action, as well as employees of counsel to
6 whom it is reasonably necessary to disclose the information for this litigation;
- 7 (c) the officers, directors, and employees (including in house counsel) of the receiving party to
8 whom disclosure is reasonably necessary for this litigation, unless the parties agree that a particular
9 document or material produced is for Attorney’s Eyes Only and is so designated;
- 10 (d) experts and consultants to whom disclosure is reasonably necessary for this litigation and
11 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);
- 12 (e) the court, court personnel, and court reporters and their staff;
- 13 (f) copy or imaging services retained by counsel to assist in the duplication of confidential
14 material, provided that counsel for the party retaining the copy or imaging service instructs the service
15 not to disclose any confidential material to third parties and to immediately return all originals and
16 copies of any confidential material;
- 17 (g) during their depositions, witnesses in the action to whom disclosure is reasonably necessary
18 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
19 otherwise agreed by the designating party or ordered by the court. Pages of transcribed deposition
20 testimony or exhibits to depositions that reveal confidential material must be separately bound by the
21 court reporter and may not be disclosed to anyone except as permitted under this agreement;
- 22 (h) the author or recipient of a document containing the information or a custodian or other
23 person who otherwise possessed or knew the information.

1 4.3 Filing Confidential Material. Before filing confidential material or discussing or
 2 referencing such material in court filings, the filing party shall confer with the designating party, in
 3 accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will remove
 4 the confidential designation, whether the document can be redacted, or whether a motion to seal or
 5 stipulation and proposed order is warranted. During the meet and confer process, the designating party
 6 must identify the basis for sealing the specific confidential information at issue, and the filing party
 7 shall include this basis in its motion to seal, along with any objection to sealing the information at
 8 issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and the standards that will
 9 be applied when a party seeks permission from the court to file material under seal. A party who seeks
 10 to maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule
 11 5(g)(3)(B), even if it is not the party filing the motion to seal. Failure to satisfy this requirement will
 12 result in the motion to seal being denied, in accordance with the strong presumption of public access
 13 to the Court's files.

14 5. **DESIGNATING PROTECTED MATERIAL**

15 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-
 16 party that designates information or items for protection under this agreement must take care to limit
 17 any such designation to specific material that qualifies under the appropriate standards. The
 18 designating party must designate for protection only those parts of material, documents, items, or oral
 19 or written communications that qualify, so that other portions of the material, documents, items, or
 20 communications for which protection is not warranted are not swept unjustifiably within the ambit of
 21 this agreement.

22 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
 23 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily

1 encumber or delay the case development process or to impose unnecessary expenses and burdens on
 2 other parties) expose the designating party to sanctions.

3 If it comes to a designating party's attention that information or items that it designated for
 4 protection do not qualify for protection, the designating party must promptly notify all other parties
 5 that it is withdrawing the mistaken designation.

6 5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see,
 7 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, disclosure or
 8 discovery material that qualifies for protection under this agreement must be clearly so designated
 9 before or when the material is disclosed or produced.

10 (a) Information in documentary form: (e.g., paper or electronic documents and deposition
 11 exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings), the designating
 12 party must affix the word "CONFIDENTIAL" to each page that contains confidential material. If only
 13 a portion or portions of the material on a page qualifies for protection, the producing party also must
 14 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

15 (b) Testimony given in deposition or in other pretrial proceedings: the parties and any
 16 participating non-parties must identify on the record, during the deposition or other pretrial
 17 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
 18 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
 19 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits
 20 thereto, as confidential. If a party or non-party desires to protect confidential information at trial, the
 21 issue should be addressed during the pre-trial conference.

22 (c) Other tangible items: the producing party must affix in a prominent place on the exterior of
 23 the container or containers in which the information or item is stored the word "CONFIDENTIAL."

1 If only a portion or portions of the information or item warrant protection, the producing party, to the
 2 extent practicable, shall identify the protected portion(s).

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate
 4 qualified information or items does not, standing alone, waive the designating party's right to secure
 5 protection under this agreement for such material. Upon timely correction of a designation, the
 6 receiving party must make reasonable efforts to ensure that the material is treated in accordance with
 7 the provisions of this agreement.

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
 10 confidentiality at any time. Unless a prompt challenge to a designating party's confidentiality
 11 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens,
 12 or a significant disruption or delay of the litigation, a party does not waive its right to challenge a
 13 confidentiality designation by electing not to mount a challenge promptly after the original designation
 14 is disclosed.

15 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute regarding
 16 confidential designations without court involvement. Any motion regarding confidential designations
 17 or for a protective order must include a certification, in the motion or in a declaration or affidavit, that
 18 the movant has engaged in a good faith meet and confer conference with other affected parties in an
 19 effort to resolve the dispute without court action. The certification must list the date, manner, and
 20 participants to the conference. A good faith effort to confer requires a face-to-face meeting or a
 21 telephone conference.

22 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention,
 23 the designating party may file and serve a motion to retain confidentiality under Local Civil Rule 7

1 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion in any such
 2 motion shall be on the designating party. Frivolous challenges, and those made for an improper
 3 purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the
 4 challenging party to sanctions. All parties shall continue to maintain the material in question as
 5 confidential until the court rules on the challenge.

6 **7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
 7 **LITIGATION**

8 If a party is served with a subpoena or a court order issued in other litigation that compels
 9 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
 10 must:

11 (a) promptly notify the designating party in writing and include a copy of the subpoena or court
 12 order;

13 (b) promptly notify in writing the party who caused the subpoena or order to issue in the other
 14 litigation that some or all of the material covered by the subpoena or order is subject to this agreement.
 15 Such notification shall include a copy of this agreement; and

16 (c) cooperate with respect to all reasonable procedures sought to be pursued by the designating
 17 party whose confidential material may be affected.

18 **8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

19 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
 20 material to any person or in any circumstance not authorized under this agreement, the receiving party
 21 must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use
 22 its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or
 23 persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d)

1 request that such person or persons execute the "Acknowledgment and Agreement to Be Bound" that
 2 is attached hereto as Exhibit A.

3 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
 4 MATERIAL

5 When a producing party gives notice to receiving parties that certain inadvertently produced
 6 material is subject to a claim of privilege or other protection, the obligations of the receiving parties
 7 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
 8 modify whatever procedure may be established in an e-discovery order or agreement that provides for
 9 production without prior privilege review. The parties agree to the entry of a non-waiver order under
 10 Fed. R. Evid. 502(d) as set forth herein.

11 10. NON TERMINATION AND RETURN OF DOCUMENTS

12 Within 60 days after the termination of this action, including all appeals, each receiving party
 13 must either return all confidential material to the producing party, including all copies, extracts and
 14 summaries thereof, or destroy all but the archival copy (see below) using appropriate methods of
 15 destruction.

16 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
 17 documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition
 18 and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even
 19 if such materials contain confidential material.

20 The confidentiality obligations imposed by this agreement shall remain in effect until a
 21 designating party agrees otherwise in writing or a court orders otherwise.

22 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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1 Dated: January 5, 2023.

2 Respectfully submitted,

3 **AKW LAW, P.C.**

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of
3 any documents in this proceeding shall not, for the purposes of this proceeding or any other
4 federal or state proceeding, constitute a waiver by the producing party of any privilege
5 applicable to those documents, including the attorney-client privilege, attorney work-product
6 protection, or any other privilege or protection recognized by law.

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8 DATED: January 9, 2023



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10 The Honorable John H. Chun
United States District Court Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on [date] in the case of _____ **[insert formal name of the case and the number and initials assigned to it by the court]**. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date:

City and State where sworn and signed:

Printed name:

Signature: _____